

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG
MAY 2 2011
MARY E. D'ANDREA, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA : CR. NO. 1:11-CR-302
:
v. :
: (Magistrate Judge Smyser)
HUMPHREY HOLMES :

MOTION FOR DETENTION

AND NOW comes the United States of America, by its undersigned counsel and, pursuant to Title 18 United States Code, § 3142, hereby requests detention of the above-named defendant, and sets forth in support thereof:

 x 1. That the government is entitled to a detention hearing based upon the following:

 a. Defendant is charged with a crime of violence as defined in Title 18 U.S.C. § 3156 or an offense listed in Title 18 U.S.C. § 2332(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed, see 18 U.S.C. § 3142(f)(1)(A); or

 b. Defendant is charged with an offense for which the maximum sentence is life imprisonment or death, see 18 U.S.C. § 3142(f)(1)(B); or

 c. Defendant is charged with an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the

Controlled Substances Act (Title 21, U.S.C., § 801 et seq.), or
Section 1 of the Act of September 15, 1980 (Title 21, U.S.C., §
955a), see 18 U.S.C. § 3142(f)(1)(C); or

- d. Defendant is presently charged with a felony and has been
convicted of two or more offenses described in subparagraph a-
c above, or two or more state or local offenses that would have
been offenses described in subparagraphs a-c above if a
circumstance giving rise to federal jurisdiction had existed or a
combination of such offenses, see 18 U.S.C. § 3142(f)(1)(D);
or
- e. Defendant is charged with a felony that is not otherwise a
crime of violence that involves a minor victim or that involves
the possession or use of a firearm or destructive device, or
involves a failure to register under § 2250 of Title 18, United
States Code. See 18 U.S.C. § 3142(f)(1)(E).
- x f. That a serious risk exists that defendant will flee, see 18 U.S.C.
§ 3142(f)(2)(A) or
- x g. That a serious risk exists that defendant will obstruct or attempt
to obstruct justice or threaten injure or intimidate or attempt to

threaten injure or intimidate, a prospective witness or juror.

See 18 U.S.C. § 3142(f)(2)(B)

____ 2. That a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community, in that:

- ____ a. That defendant has been convicted of a federal offense described in subsection 1(a)-(d) above, or of a state or local offense that would have been an offense described in subsection 1(a)-(d) above if a circumstance giving rise to federal jurisdiction had existed;
- ____ b. That the offenses described in paragraphs 1(a)-(d) above were committed while defendant was on release pending trial for a federal, state or local offense; and
- ____ c. A period of not more than five years has elapsed since the date of defendant's conviction or release from imprisonment for the offenses described in paragraph 1(a)-(d) whichever is later.

See 18 U.S.C. § 3142(e).

____ 3. That a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the appearance of defendant as required and the safety of the community, in that:

a. Defendant committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (Title 21, U.S.C., § 951 et. seq.), Section 1 of the Act of September 15, 1980 (Title 21, U.S.C., § 955a; or

 b. Defendant committed an offense under Title 18, U.S.C., § 924(c), that is, defendant did during and in relation to any crime of violence or drug trafficking crime use or carry a firearm; or

 c. Defendant committed an offense under Title 18, U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of ten years or more is prescribed, or an offense involving a minor victim under Title 18, U.S.C., §§ 1201, 1591, 2241-42, 2244-45, 2251-52, 2260, 2421-23 or 2425. See 18 U.S.C. § 3142(e)(3)(C) and (E).

 x 4. The Government further submits that no condition or combination of conditions will reasonably assure the appearance of defendant as required and the safety of any other person and the community because:

- ☒ a. Defendant is a danger to any other person or the community,
and/or;
- ☒ b. Defendant is a flight risk.
- ☒ 5. The defendant is currently in custody on other matters. The United States requests the entry of a detention order at this time without prejudice to a full detention hearing in the event that the defendant's custodial status changes.
- ☐ 6. The United States requests a continuance of three days in which to prepare for a hearing on this motion.

Respectfully submitted,

PETER J. SMITH
United States Attorney

Dated: November 2, 2011

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